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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	
RALPH FAMIGLIETTI, D.M.D.	:	FINAL ORDER
License No. 22DI00787900	:	OF DISCIPLINE
	:	
TO PRACTICE DENTISTRY IN THE	:	
STATE OF NEW JERSEY	:	

The New Jersey State Board of Dentistry ("Board") entered a Provisional Order of Discipline on March 7, 2013, based on its review of information that Ralph Famiglietti, D.M.D. ("Dr. Famiglietti" or "respondent"), had engaged in professional misconduct by failing to comply with the terms of a consent order entered on April 4, 2012. Specifically, Dr. Famiglietti failed to successfully complete and pass the *PRIM~E* (Professional Renewal in Medicine [through] Ethics) course. The Provisional Order rested on the report of the course director who advised the Board that Dr. Famiglietti had not passed the course, despite his having had a second opportunity to write a passable final essay. In the director's opinion, Dr. Famiglietti "ha[d] not taken the course seriously or considered the concerns of the Board regarding his professional behavior."

In responding to the Provisional Order, respondent, through the June 7, 2013 submission of Pamela Mandel, Esq., indicated that he anticipated retiring from the practice of dentistry and asked that he be permitted to retire or not renew his license rather than be disciplined.¹ Counsel argued that Dr. Famiglietti did attend the PRIM-E course and completed two written assignments in connection with that course. Notably, however, counsel wrote: "Since receiving the [Provisional Order of Discipline] from your office, Dr. Famiglietti has reread all of the materials provided in the course and he remains unable to apply those readings to his conduct."

By letter dated August 29, 2013, Deputy Attorney General Swang Oo urged the Board to sustain the proposed discipline. She noted that there was no dispute that Dr. Famiglietti had failed to comply with the terms of the consent order he entered into in April 2012 and, moreover, he failed to understand why the Board had ordered completion of a course in ethics. Reminding the Board that its action was based among other things on inappropriate billing, over-treating patients, performing unnecessary procedures, and failing to adequately

¹ By letter dated September 9, 2013, Ms. Mandel advised the Board that Dr. Famiglietti has now transferred his dental practice and wished to renew his license in inactive status. As of the date of this order, Dr. Famiglietti has not renewed his license and it is in expired status.

document treatment rendered, she argued the sanction was appropriate.

On October 16, 2013, the Board reviewed the matter including submissions of counsel. Having fully considered the arguments, the Board is persuaded that the sanctions proposed in the Provisional Order are appropriate. Dr. Famiglietti freely entered into the April 2012 consent order. He understood it was his obligation to "fully attend, successfully complete, and pass" a comprehensive ethics course. The course director, giving him a second chance at the final essay, "told him exactly what to concentrate on." But Dr. Famiglietti's essay "contain[ed] nothing regarding critical reasoning related to his boundary violations or what he learned from the course regarding those infractions." (November 13, 2012, letter from course director). Even now, when confronted with disciplinary action against his license, he has been unable to summon even the slightest insight regarding the behaviors that brought him before the Board.

The Board, therefore, will finalize the Provisional Order of Discipline without modifying the sanction proposed there. Respondent is reprimanded for engaging in professional misconduct, specifically for failing to comply with the terms of a Board order. As Dr. Famiglietti is no longer actively practicing, he may, if he chooses, to elect "inactive" or

"retired" status for the biennial period November 1, 2013 to October 31, 2015, and any subsequent renewals. Should he choose to apply to reactivate his license, in addition to any extant administrative and continuing education requirements, he will be obligated to submit proof that he has successfully completed and passed a Board approved ethics course. Notwithstanding his decision not to renew his license for the 2013-2015 renewal period, the Board will suspend his license for sixty days, such suspension to commence fourteen days from the entry of this order. The Board reserves the right to require his appearance prior to reinstatement.

Therefore, the Board, for the reasons discussed above, makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Ralph Famiglietti, D.M.D., is the holder of License No. 22DI00787900 and was licensed to practice as a dentist in the State of New Jersey and has been licensed at all times relevant to this matter.

2. Respondent entered into a Consent Order with the Board filed April 4, 2012, for failing to adequately address patient's dental conditions and failing to adequately document treatment provided. Pursuant to the Consent Order, respondent was to successfully complete, and pass approved continuing education

courses and to pay civil penalties and costs. Respondent acknowledged that failure to comply with any of the terms of the Consent Order could result in further disciplinary action by the Board.

3. By letter dated November 13, 2012, Dr. Russell L. McIntyre, of the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, informed the Board that the respondent did not pass the Professional Renewal in Medicine through Ethics ("PRIM-E") course as required by the Consent Order.

CONCLUSIONS OF LAW

Respondent's failure to comply with the Board's order constitutes professional misconduct pursuant to N.J.S.A. 45:1-21(e), which provides a basis for disciplinary action in this State.

ACCORDINGLY, IT IS on this 10th day of December, 2013,

ORDERED that:

1. Ralph Famiglietti, D.M.D., is reprimanded for engaging in professional misconduct through his failure to comply with the Board's Order.

2. Respondent's license to practice dentistry in this State is suspended for 60 days, which suspension shall commence 14 days from the entry of this order.

3. Respondent shall refrain from engaging in the practice as a dentist in the State of New Jersey and shall not represent himself as a dentist during any time that his license is suspended, is in inactive or retired status or is expired. Any practice in this State without an active license shall constitute grounds for a charge of unlicensed practice.

4. Prior to the Board's consideration of any application of reinstatement of his license in this State, respondent shall:

a. Provide the Board with evidence that he has successfully completed the requirements of the April 2012 Consent Order to include all required continuing education and securing a final grade of unconditional pass of the Professional/Problem-Based Ethics ("ProBE") course, or the PRIME ethics course, or another Board approved ethics course of similar content and duration. "Successful completion" means that respondent has attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass;

b. Provide the Board with a full account of his conduct during the intervening period of time from the entry of this order until his appearance (if required by the Board) pursuant to this order;

c. Demonstrate that he has completed the necessary continuing education as required by regulation and all other requirements for reinstatement.

NEW JERSEY STATE BOARD OF DENTISTRY

By Shirley Birenz, R.D.H.
Shirley Birenz, R.D.H.
Board Vice President

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

6. Reports of Reimbursement

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

7. Report of Changes of Address

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.